



Representative Association of Commissioned
Cromhlachas Ionadaitheach na nOifigeach



Mr. Paul Kehoe, T.D.
Minister for Defence
Department of Defence,
Station Road,
Newbridge.

25 April 2018

Defence Forces New Entrant Superannuation

Dear Minister,

1. On behalf of the Association Members, I am writing to you requesting your intervention in addressing the existing anomaly of the New Entrant DF Superannuation Scheme applicable to those in service since 01 January 2013.
2. Since 1995, Defence Force Commissioned Ranks pay PRSI Class "A" contributions. DF Pensions are classed as "defined benefit" and "fully integrated" with the range of Social Insurance benefits. "Integration means that their entitlement to the range of Social Insurance benefits (including the State Pension Contributory) is taken into account when calculating the amount of occupational pension payable" (Terms and Conditions of Cadetships 2018).
3. For PRSI Class "A" contributors, final overall superannuation benefits are designed and consist of two elements; the occupational element and the value of the State Pension Contributory (SPC). Defence Sector Management now decree that the *entitlement* to the SPC or equivalent value by *supplementary pension* will be denied to New Entrants as a consequence of the introduction of the Single Pension Scheme Act 2012. Mandatory retirement from DF service (56- 60) at ages well in advance of the payment of the SPC (currently 66 and going out to 68 in 2028) results in a final benefit that is *unsustainable*. See Annex 'A'. ***The DF Superannuation Scheme for New Entrants is fundamentally flawed.***
4. Since 2013, DF New Entrants are being forced to pay higher contributions into a superannuation scheme that fails to deliver a viable "living benefit" for the period from retirement up to and until the SPC is paid (10 years for rank of Commandant). The denial of the supplementary pension, previously agreed by Management in recognition of *mandatory early retirement*, is viewed as inconsistent with the design intent of a *defined benefit* scheme and *integrated model of superannuation*. ***The DF Superannuation Scheme is fundamentally compromised as a consequence of the denial to provide the value of the SPC in final benefits.***
5. **Background - Single Pension Scheme Act 2012**
 - a. The limited consultation between the parties (Department of Defence and DF Representative Associations) prior to the introduction of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 focused purely on the movement to a career average earnings model of superannuation accrual. The provision of the supplementary pension, as agreed between the parties in Annex 'C' to CCR 421, did not form part of these discussions in spite of the Official Side's knowledge of its

impending withdrawal under new legislation. *This situation has been confirmed to RACO through the Freedom of Information Process. As Trustees of the DF Superannuation Scheme, this situation is questionable and unacceptable.*

- b. RACO's position is that, in addition to existing sectoral superannuation arrangements that recognise and provide for mandatory early retirement from the workforce (Annex 'C' to CCR 421), the Public Service Pensions Act of 2012, Section 15, provides additional powers to the Minister to provide, where necessary, secondary legislation for pre-existing arrangements where not inconsistent with the scheme i.e. *The Minister has the powers to provide for pre-existing arrangements (supplementary pension) where not inconsistent with the scheme.*
 - c. Of great concern and disappointment to the Association is the failure of Defence Sector Management to fully disclose all material facts in relation to the changes introduced by the Single Pension Scheme and, additionally, the ongoing failure of the Minister and Management in progressing solutions in addressing the indisputably flawed nature of the New Entrant DF Superannuation Schemes. The approach by the Defence Sector is in stark contrast to Government's approach to the *unionised sectors. Government's two-tier approach in addressing sectoral issues does not go unnoticed by our Members.*
6. Since 2016, on discovery of the flawed nature of DF New Entrant Schemes, RACO has endeavoured to engage with the Minister and Defence Sector Management to address the glaring anomaly of the DF Superannuation Scheme where final benefits will not provide a viable "living benefit" to those who serve a career in the DF. To date, our Members have not received any constructive response from Management nor have any negotiations commenced on measures to address the flawed nature of the DF New Entrant Superannuation Scheme.
7. In contrast to how DF New Entrants have been treated, our Members observe the urgency with which Government and DPER has resolved this issue for Public Servants in other sectors. The publication of Government's Review of Barriers to Extended Compulsory Retirement in the Workforce (November 2017) saw the related (but less severe) issues of other Public Servants addressed. The Defence Sector's failure in addressing this significant superannuation anomaly is disappointing and reflective of an organisation that no longer wishes to encourage or values "*career service*" in the Defence Forces. DF New Entrants must now factor the fundamentally flawed nature of DF Superannuation Benefits when making long-term career and consequential financial decisions which adequately provide for their future retirement. **As it currently stands, while this anomaly goes unresolved, *career service in the Defence Forces is no longer a financially viable career option.* RACO Members question if this is the Minister's intention and that of his Department?**
8. Members present at your address to the Command & Staff School on the 20 April 2018 noted your reference to the *supplementary pension* and your comments with respect to RACO's understanding of the Minister's ability to address the situation. RACO's position and observations on the powers of the Office of the Minister to influence this issue are noted hereunder;
- a. **CCR 421-** It is the position of the Association that the unique conditions of DF service, outlined and agreed by the parties in Annex 'C' to CCR 421, *have not*

changed in any way and consequently the provision of supplementary pension, where qualifying, should in no way be impacted by the introduction of the Public Service Pensions Act 2012. CCR 421 is a stand-alone sectoral agreement providing for the recognised unique conditions of mandatory retirement at ages below the qualifying age for receipt of the SPC.

- b. **Review of Barriers to Extended Compulsory Retirement in the Workforce:** DPER's Report excludes those in the Defence Forces due to the unique conditions of service. In this report, the Department of Defence stated that;
- i. Historically, retirement ages in the Defence sector have differed when compared to Public Service norms in order to address particular needs in that sector;
 - ii. However, a number of issues are currently being raised by staff in relation to retirement age in light of recent Public Service pension developments;
 - iii. In particular, the gap between the compulsory retirement age and the age of entitlement to the State Pension is a concern;
 - iv. While it was likely that there would be a need to reconsider compulsory retirement ages for this sector in the future, it was considered that a standalone review to be carried out in the context of the operational considerations of the Defence Forces would be the appropriate way to proceed;
 - v. D/Defence will provide objective justification for the decision not to include the Defence Forces in the review at this point based on unique sectoral considerations including operational matters.
- c. **The Department of Defence recorded position in this report unquestionably assumes sectoral responsibility in addressing the mandatory retirement age and payment of SPC anomaly. Additionally, when this Working Group and report was discussed during the most recent Pay Negotiations in 2017, DPER, at a special meeting convened to address the issue of DF Superannuation, stated that *"organisations such as the Defence Forces with unique conditions of service would be left to determine their own arrangements by Ministerial order"* (06 June 2017).**
- d. Government and DPER moved quickly to address the anomaly of other cohorts of Public Servants even when the situation was significantly less severe for these cohorts than it was for those who serve in the DF. Public Servants, where forced to retire at 65, were granted the option of extending service to 66 and out to 70 in order to meet the payment age of the SPC and maximise their superannuation. DF personnel, forced to retire at 54-60, were excluded from the deliberations of the report as a consequence of the Department of Defence position on the matter. *This unilateral decision was made in the absence of consultation with the Representative Associations, thereby excluding our Members from legitimate representation on a most significant service issue.*
- e. As a consequence of our Members' marginalisation during this review, our Members question why Government, our Minister and Defence Sector Management failed to address the significantly more severe situation of DF New Entrants? In contradiction to the Department of Defence statement (para 8. b. iv. above) no Review or White Paper Project has yet commenced to address this

significant issue of DF New Entrants. *The timeline in providing a solution to the DF in comparison to that afforded to other Public Servants only demonstrates either a lack of urgency or questionable intent.*

- f. RACO Members find the situation particularly discouraging where, in spite of assurances from the Minister noting their concerns on the matter and reassuring Members that *"I will ensure that these are raised in the appropriate forums"* (Delegate Conference, November 2017) our Members have not heard or seen any evidence to support these assurances. While Defence Sector Management delay in initiating an internal review of mandatory retirement ages, providing a solution to the current DF Superannuation anomaly would appear less significant than Government's approach to resolving the same issue in the unionised sectors.
- g. Minister, you have expressed the view (C&S Course, 20 April 2018) that you are not in a position to provide a solution to the existing anomaly of DF superannuation benefits for New Entrants. Your position is met with great disappointment to the Association Members when the recorded position of the Official Side in previous agreements on the matter (CCR 421) supported the payment of a supplementary pension equal in value to the SPC. The Department of Defence statement in the Review of Barriers to Extended Compulsory Retirement in the Workforce further reinforced the exceptional conditions of military service while DPER's observations expressed to the DF Representative Associations during Pay Talks 2017 confirmed the status of the sectoral Minister on such matters.
- h. The Taoiseach, as the Minister for Social Protection in 2017, acknowledged *"there are 'particular issues' facing workers who are forced to retire age 65 and then have to wait a year to receive the State pension"*. He said, *"this problem is being examined by the Government and the Workplace Relations Commission has now been tasked with drawing up a new code of practice for employers and employees on working for longer"* (Irish Independent, 01 January 2017). *The situation of DF New Entrants is indisputably more severe in nature and quantum.*
- i. Minister Paschal Donohoe TD recently commented on the issue of DF Superannuation where, in response to Dáil questions stated that *"she (Deputy Lisa Chambers) will continue to raise it with the Minister of State, Deputy Paul Kehoe, who I have no doubt will raise it with me"* (Dáil Éireann, 09 November 2017).
- j. Similarly, in the context of addressing such anomalies created by the 2012 Act, RACO Members note how the Minister for Social Protection (Ms Regina Doherty TD) brought a memorandum to Cabinet in January 2018 proposing a partial solution to a pensions anomaly in order to address the position of some cohorts of retired workers where the value of superannuation benefits has been negatively impacted.

9. **Government's approach to New Entrant Pay**

RACO Members note the urgency and pace of negotiations in addressing the equalisation of New Entrant Pay. It would appear that the influencing power of unions, combined with the threat or conduct of Industrial Action, is an indisputable stimulus in securing Government and Management's attention in addressing such issues. Where RACO welcomes progress on such serious issues for all employees, our Members question why

Defence Sector Management has not given equivalent attention to DF-specific superannuation issues which are of equal, if not greater significance to DF New Entrants.

10. The fundamental flawed nature of the DF New Entrant Superannuation Scheme is a policy contradiction. Forcing DF New Entrants to pay higher superannuation contributions where final benefits fail to deliver on the design intent of a defined benefit integrated model is seen by Members as extremely punitive and questionable in nature by its failure to factor unique DF service conditions.
11. RACO has sent a copy of this communication to all Members in order to demonstrate the efforts the Association has made in identifying the fundamental failures of both the DF C&A Scheme and Defence Sector Management in progressing solutions to these significant organisational issues. In an organisation where the *manning levels* of units are in an indisputable crisis and where there is a recognised organisational failure in *retaining* trained and experienced staff, the Association requests credible engagement by Management to address this significant issue.
12. Minister, you have stated that you acknowledge our Members' concerns and that you would ensure that these issues would be raised in the appropriate forums. However, in contrast to how other Departments have addressed their situation, your Department has signally failed to consider the Official Side's position supporting a "supplementary pension" as clearly articulated in Annex C CCR421 or conduct a 'standalone review' of compulsory retirement ages to facilitate in progressing a solution for the New Entrant DF Commissioned Officers. As a matter of urgency, the Association requests you to;
 - a. Respond to our members on the issues raised in this communication outlining how the Minister and the Department of Defence plan to address these discriminatory superannuation anomalies while factoring the unique military service conditions of mandatory early retirement.
 - b. In so doing, engage with your colleagues, the Minister for Finance and Public Expenditure & Reform and the Minister for Employee Affairs and Social Protection, who were represented as parties to the agreement (CCR 421) in order to ameliorate the unfair superannuation entitlements that target the economic well-being of a particular cohort of DF Commissioned Officers.
 - c. Direct Defence Sector Management to initiate and conclude in a timely manner the review of Mandatory Retirement Ages in order to allow progress in the provision of a suitable solution to these identified anomalies in line with commitments referenced in para 8. b. iv. above.

13. For your attention and consideration.

Yours sincerely,



(Earnán Naughton) Lt Col
General Secretary RACO

Comparison of Single Scheme Standard vs. Fast Accrual Income

